

Message Text

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ACTION EB-03

INFO OCT-01 SS-14 ISO-00 SSO-00 /018 W

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O 131522Z FEB 76

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TO SECSTATE WASHDC IMMEDIATE 0611

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E.O. 11652: N/A

TAGS: ENRG, CA, US

SUBJECT: KATZ STATEMENT FOR FEB 17 SENATE HEARING

FOR EB

GQM FOLLOWING ARE CHANGES IN KATZ STATEMENT FOR FEB. 17 HEARING BEFORE SENATE COMMERCE AND INTERIOR COMMITTEES. COMMENTS ARE KEYED TO NUMBERED PARAS IN COPY LEFT WITH WILSON RILEY (EB/ORF/FSE).

2. HEADING SHOULD IDENTIFY KATZ AS DEPUTY NOT ACTING.

3. REPLACE PARAS 1 AND 2 WITH FOLLOWING: QUOTE, MR. CHAIRMAN: THIS JOINT HEARING BY THE COMMITTEE ON THE INTERIOR AND INSULAR AFFAIRS AND THE COMMITTEE ON COMMERCE IS BOTH TIMELY AND APPROPRIATE. A DECISION ON THE BEST MEANS TO TRANSPORT TO MARKETS IN THE CONTINENTAL U.S. THE LARGE NATURAL GAS SUPPLIES KNOWN TO EXIST ON THE NORTH SLOPE OF ALASKA IS A VITAL ELEMENT IN OUR LARGER ENERGY POLICY WHICH SEEKS TO REDUCE OUR ECONOMIC AND POLITICAL VULNERABILITY ARISING FROM DEPENDENCE ON IMPORTED ENERGY. THE AVAILABILITY OF NATURAL GAS FROM ALASKA WILL SIGNIFICANTLY HELP OFFSET DECLINING PRODUCTION IN THE LOWER 48 STATES. AND, UNLESS SOME DISPOSITION IS MADE OF THE ASSOCIATED GAS IN NORTH SLOPE FIELDS, THE RATE OF DEVELOPMENT OF PRUDHOE BAY OIL PRODUCTION WILL BE SLOWED AS A CONSEQUENCE. I THEREFORE WELCOME, MR. CHAIRMAN, THIS OPPORTUNITY TO

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DISCUSS WHAT WE HAVE BEEN DOING TO FACILITATE A DECISION

ON A TRANSPORTATION SYSTEM FOR ALASKAN GAS. I WOULD LIKE TO DESCRIBE TO YOU THE PROGRESS WE HAVE MADE IN OUR NEGOTIATIONS WITH THE CANADIAN GOVERNMENT ON A TRANSIT PIPELINE AGREEMENT. UNQUOTE.

4. IN LAST SENTENCE OF PARA 3, REPLACE "HAS ENVISAGED ITS ROLE AS ENSURING" WITH "SOUGHT TO ENSURE".

5. IN FIRST SENTENCE OF PARA 4, DELETE "IN FACT".

6. REWRITE PARA 5 AS FOLLOWS: "IN RESPONSE TO THIS CONGRESSIONAL MANDATE AND THE NEED TO KEEP OPEN THE POSSIBILITY OF A TRANS-CANADA PIPELINE FOR ALASKAN NATURAL GAS AS AN ALTERNATIVE TO OTHER TRANSMISSION SYSTEMS, NEGOTIATIONS WERE PROPOSED TO THE CANADIAN GOVERNMENT IN THE SPRING OF 1974 ON A TRANSIT PIPELINE AGREEMENT. THEY WERE FORMALLY BEGUN ON NOVEMBER 1, 1974."

7. ADD FOLLOWING SENTENCE TO PARA 6: "BECAUSE OF THE HUGE COST OF BUILDING PIPELINES THROUGH ARCTIC AREAS, IT WAS CLEAR THAT INTER-GOVERNMENTAL ASSURANCES REGARDING NON-INTERFERENCE WITH AND NON-DISCRIMINATORY TREATMENT OF HYDROCARBONS IN TRANSIT WOULD BE ESSENTIAL TO PROVIDE INVESTORS WITH THE INCENTIVE NECESSARY TO ENSURE THAT THE SUBSTANTIAL CAPITAL REQUIRED WOULD BE FORTHCOMING."

8. PARA 8: ADD NEW FIRST SENTENCE: "ON JANUARY 28 OF THIS YEAR WE REACHED AN REFERENDUM AGREEMENT ON SUCH A TRANSIT PIPELINE AGREEMENT. BEGINNING OF NEXT SENTENCE SHOULD BE MODIFIED TO READ: "THE DRAFT TEXT OF THIS TREATY IS CAST IN TERMS . . ."

9. STRIKE EXISTING PARA 10 AND REPLACE WITH FOLLOWING:
"A MAJOR ISSUE IN THE NEGOTIATIONS CONCERNED THE QUESTION OF TAXATION. SINCE US AND CANADIAN CONSTITUTIONAL PRACTICE DIFFER WITH REGARD TO THE POWER OF THE FEDERAL GOVERNMENTS TO LIMIT THE TAXING AUTHORITY OF LOCAL GOVERNMENTS, THERE WAS CONCERN EXPRESSED PUBLICLY WHETHER USEFUL ASSURANCES COULD BE OBTAINED IN SUCH AN LIMITED OFFICIAL USE

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AGREEMENT. IN THE END, HOWEVER, THE DIFFERENCE IN CONSTITUTIONAL PRACTICE PROVED NOT TO BE A SERIOUS PROBLEM. BOTH GOVERNMENTS WERE ABLE TO UNDERTAKE COMMITMENTS BINDING STATE AND PROVINCIAL AUTHORITIES AGAINST TAXES OR OTHER CHARGES ON THE THROUGHPUT OF HYDROCARBONS MOVING THROUGH TRANSIT PIPELINES. IN ADDITION, BOTH GOVERNMENTS WERE ABLE TO AGREE THAT

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TAXES AND OTHER CHARGES WHICH REMAINED WITHIN THE AUTHORITY OF STATES AND PROVINCES -- SUCH AS ON REAL ESTATE USED FOR RIGHTS-OF-WAY, ON CORPORATE INCOME AND ON SALES -- SHOULD BE NON-DISCRIMINATORY. SINCE THE US GOVERNMENT DID NOT WISH TO INTERVENE IN THIS TRADITIONAL AREA OF STATE TAXING AUTHORITY AND THE CANADIAN GOVERNMENT COULD NOT DO SO BECAUSE OF ITS CONSTITUTIONAL STRUCTURE, THIS DID NOT PROVE TO BE A REAL PROBLEM."

10. DELETE PARA 11 AND REPLACE WITH FOLLOWING: "AT THE SAME TIME, WE RECOGNIZED THAT EVEN THOUGH TAXES AND OTHER MONETARY CHARGES WOULD NOT BE DISCRIMINATORY, SUCH CHARGES MIGHT BE AT A LEVEL WHICH MIGHT AFFECT THE ECONOMIC VIABILITY OF TRANSIT PIPELINES. FOR THIS REASON, WE PROPOSED INCLUSION IN THE DRAFT AGREEMENT OF LANGUAGE THAT WOULD PROVIDE PROTECTION AGAINST THE IMPOSITION ON TRANSIT PIPELINES OF AXES OR OTHER MONETARY CHARGES WHICH WHILE NOT DISCRIMINATORY WERE UNREASONABLE OR WHICH MIGHT CONSTITUTE AN ONEROUS BURDEN ON THE TRANSMISSION OF HYDROCARBONS IN TRANSIT PIPELINES."

1L. DELETE PARA 13 AND REPLACE WITH FOLLOWING: "WE DID NOT REACH A COMMON POSITION AND BOTH SIDES CONSIDERED THAT IT WOULD NOT BE APPROPRIATE TO COVER THIS MATTER

IN A GENERAL AGREEMENT. WE THEREFORE DECIDED TO OMIT
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LANGUAGE ON THIS POINT FROM THE DRAFT TEXT. HOWEVER,
BOTH GOVERNMENTS RECOGNIZED THAT THIS ISSUE COULD BE
ADDRESSED IN DETAIL WITH RESPECT TO A SPECIFIC PIPELINE
PROPOSAL IN A SEPARATE PROTOCOL."

12. DELETE "PROMPTLY" IN PARA 17.

13. DELETE PARA 20.

L4. DELETE "IN FACT" IN PARA 21.

L5. ADD NEW PARAS AFTER 22 AS FOLLOWS: "AS WE HAVE
INDICATED IN OUR RESPONSE TO THE COMMITTEE'S QUESTION-
NAIRE, THE CANADIAN GOVERNMENT IS MOVING TOWARD
A DECISION ON THE APPLICATIONS BEFORE IT FOR CONSTRUC-
TION OF A PIPELINE TO OBTAIN ACCESS TO NATURAL GAS

RESOURCES IN NORTHERN CANADA. THE NATIONAL ENERGY
BOARD HAS ALREADY COMPLETED THE FIRST TWO PHASES OF
ITS HEARINGS AND SHOULD BE IN A POSITION TO SUBMIT ITS
RECOMMENDATION TO THE CABINET SOME TIME THIS FALL. THE
INQUIRY UNDER THE DIRECTION OF JUSTICE THOMAS BERGER
IS NOW EXPECTED TO COMPLETE ITS WORK BY MID-YEAR.
JUSTICE BERGER SHOULD BE ABLE TO SUBMIT HIS FINDINGS
AND RECOMMENDATIONS REGARDING THE TERMS AND CONDITIONS
WHICH SHOULD BE ATTACHED TO CONSTRUCTION AND OPERATION
OF PIPELINES IN CANADA'S NORTHERN TERRITORIES TO THE
GOVERNMENT A FEW MONTHS AFTERWARD. WE HAVE REMAINED IN
CLOSE CONTACT WITH CANADIAN OFFICIALS REGARDING THE
TIMING OF OUR RESPECTIVE PROCEDURES REGARDING TRANS-
PORTATION SYSTEMS FOR MOVING OUR RESPECTIVE NATURAL GAS
RESERVES TO MARKETS. WE ARE INFORMED THAT CANADA
EXPECTS TO BE IN A POSITION TO MAKE A FINAL DECISION ON
THE COMPETING APPLICATIONS THE END OF 1976. THE
TIMING OF CANADA'S FINAL DECISION WOULD THUS FIT WELL
WITH OUR OWN PROJECTED SCHEDULE. IN THE EVENT CANADA
DECIDES IN FAVOR OF A JOINT NATURAL GAS PIPELINE AND

THE UNITED STATES DETERMINES THAT SUCH A SYSTEM WOULD
BEST SERVE OUR INTERESTS, WE BELIEVE A FINAL DECISION
COULD BE MADE BY THE END OF 1976.

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ENERGY, UPPER HOUSE, COMMITTEES
Control Number: n/a
Copy: SINGLE
Draft Date: 13 FEB 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976OECDP04517
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760055-0847
From: OECD PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760251/aaaabsbo.tel
Line Count: 224
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: LIMDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 16 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16 APR 2004 by greeneet>; APPROVED <01 JUL 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: KATZ STATEMENT FOR FEB 17 SENATE HEARING FOR EB
TAGS: ENRG, CA, US, (KATZ)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006